Filed February 02, 2004

IN THE UNITED STATES COURT OF APPEALS
FOR THE NINTH CIRCUIT

JEFFREY WELTON NUNES
Petitioner

v.

G.A. MUELLER, Warden
Respondent

No. 03-15509

No. CIV-S-98-0106 LLK JFM P

Before: REINHARDT and GRABER, Circuit Judges, and SHADUR, Senior District Judge*:

Judges Reinhardt and Shadur have voted to deny the petition for rehearing. Judge Reinhardt votes to deny the petition for rehearing en banc and Judge Shadur so recommends. Judge Graber votes to grant the petition for rehearing and petition for rehearing en banc. The petition for rehearing and petition for rehearing en banc are DENIED.

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* The Honorable Milton I. Shadur, Senior United States District Judge for the Northern District of Illinois, sitting by designation.